

**GENERAL TERMS AND CONDITIONS  
FOR STORAGE SERVICES  
FOR  
ARCELORMITTAL DOFASCO G.P.**

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## SECTION 1. DEFINITIONS

- (a) Capitalized terms shall have the following definitions throughout this Outside Storage Contract:
- (i) “AMD” means ArcelorMittal Dofasco G.P.
  - (ii) “AMD’s Authorized Representative” shall mean any person whom AMD designates to Storage Provider in writing as the AMD’s Authorized Representative.
  - (iii) “AMD Companies” shall mean AMD and any of its subsidiaries and affiliates.
  - (iv) “AMD’s Indemnitees” shall mean all AMD Companies and each of their respective directors, officers, employees, agents and insurers.
  - (v) “AMD’s Premises” shall mean all properties owned, leased, occupied and/or maintained by AMD.
  - (vi) “AMD Property” shall mean all steel, steel products or substrate shipped to Storage Provider, or otherwise in Storage Provider’s possession, custody or control for the purpose of providing Storage Services, and all proceeds resulting therefrom.
  - (vii) “Applicable Law(s)” means, at any time, all applicable laws, statutes, regulations, treaties, judgments and decrees and (whether or not having the force of law) all applicable official directives, rules, consents, approvals, by-laws, permits, authorizations, guidelines, orders and policies (i) currently applicable to Storage Provider’s performance of the Services and to all goods and services to be provided to AMD under this Outside Storage Contract, or (ii) scheduled to become applicable with the passage of time.
  - (viii) “Changed Services” shall have the meaning set forth in Section 6(a) of these General Terms for Outside Storage.
  - (ix) “Change Orders” shall have the meaning set forth in Section 6(b) of these General Terms for Outside Storage.
  - (x) “Completion Date” shall have the meaning specified in the Purchase Order applicable to this Outside Storage Contract.
  - (xi) “Contract Price” shall have the meaning specified in a Purchase Order specific to the Services described in such Purchase Order.

- (xii) “Contract Schedule” shall have the meaning specified in a Purchase Order specific to the Services described in such Purchase Order.
- (xiii) “Execution Sheet for the Outside Storage Master Agreement” shall mean the document most recently executed by AMD and Storage Provider entitled “Outside Storage Master Agreement”.
- (xiv) “General Terms for Outside Storage” and “General Terms” shall mean these General Terms and Conditions for Outside Storage Services.
- (xv) “Other Contractual Documents”, collectively, shall mean any other terms, conditions and provisions in any other documents (i) attached to the Outside Storage Master Agreement; (ii) issued by AMD as contemplated by the Outside Storage Master Agreement, including without limitation documents commonly referred to as “Purchase Orders”; or (iii) referenced in any of the foregoing documents for purposes of incorporation into Outside Storage Contracts under the Outside Storage Master Agreement (any such documents, collectively, “Referenced Documents”).
- (xvi) “Outside Storage Contract” shall mean a contract entered into between Storage Provider and AMD upon acceptance of a Purchase Order as governed by the terms set out in this Outside Storage Master Agreement.
- (xvii) “Outside Storage Master Agreement” shall mean the “master-type” agreement executed by Storage Provider and AMD on the Execution Sheet for the Outside Storage Master Agreement in order to establish the terms, conditions and provisions for entering into one or more Outside Storage Contracts.
- (xviii) “Outside Storage Services” means services provided for the storage of AMD Property but shall not include any storage services provided for AMD Property for which processing services of such AMD Property are also provided or intended to be provided. For the purposes of this Agreement, processing services shall include but not be limited to blanking, cleaning, embossing, packaging, painting/laminating, pickling, rewind, shearing, slitting, tension leveling and coil repair.
- (xix) “Parties” shall mean AMD and Storage Provider.
- (xx) “Storage Provider” shall mean the party or parties identified as Storage Provider on the Execution Sheet for the Outside Storage Master Agreement providing Storage Services and, solely for purposes of specifying Storage Provider’s obligations under this Outside Storage Contract, shall include Storage Provider’s employees, agents, Subcontractors and Suppliers at any tier.

- (xxi) “Services” shall mean the storage and related ancillary services as specified in the Purchase Order or Purchase Orders applicable to this Outside Storage Contract.
- (xxii) “Subcontractor” shall mean any person or company contracting directly with or indirectly through Storage Provider at any tier to furnish Storage Provider with any services under or related to this Outside Storage Contract.
- (xxiii) “Supplier” shall mean any person or company contracting directly with or indirectly through Storage Provider to supply goods under this Outside Storage Contract.

## **SECTION 2. GENERAL PROVISIONS**

- (a) These General Terms contain provisions of general applicability to Storage Providers and Outside Storage Contracts entered into by AMD.
- (b) This Outside Storage Contract represents the entire agreement of the Parties with respect to the subject matter hereof; and no agreement or understanding in any way modifying this Outside Storage Contract (including Change Orders) shall be binding upon AMD or Storage Provider unless made in writing and signed by an authorized representative of each of AMD and Storage Provider. All other agreements or alleged agreements and any proposals made prior to this Outside Storage Contract are hereby superseded. Any reference whatsoever to, or any incorporation in any way whatsoever of, any bid, proposal, offer or quote of Storage Provider in any part of the Other Contract Documents shall mean and include no more than the price, schedule, quantity and/or quality terms of Storage Provider’s bid, proposal, offer or quote, as applicable, and shall expressly exclude any of Storage Provider’s other terms and conditions of sale or performance. Any reference to AMD’s or Storage Provider’s general terms and conditions of purchase, sale or performance in any Purchase Order or any communication or document issued or delivered by Storage Provider (including, not limited to acknowledgements or invoices) shall not be operative, binding or effective.
- (c) The division of this Outside Storage Contract into sections, the insertion of headings and the inclusion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Outside Storage Contract.
- (d) Nothing herein requires AMD to order any Services from Storage Provider or confers upon Storage Provider any exclusive right to provide such Services to AMD.
- (e) It is the intent of the parties that whenever possible, each term, condition and provision of this Outside Storage Contract shall be interpreted in such manner as

to be effective and valid under applicable law, and that if any term, condition or provision of this Outside Storage Contract shall be rendered ineffective by or found to be invalid under applicable law, such term, condition or provision shall be deemed ineffective or invalid only to the minimum extent necessary, without invalidating the remainder of such provision or the remaining provisions of the Outside Storage Contract.

- (f) All documentary parts of this Outside Storage Contract are complementary; what is called for by one part is as binding as if called for by all. If Storage Provider finds a conflict, error or discrepancy in any parts of this Outside Storage Contract, Storage Provider shall notify AMD before proceeding with the Services affected thereby, and receive written confirmation from AMD's Authorized Representative with regards to such error or discrepancy before proceeding.
- (g) Except as otherwise expressly specified in this Outside Storage Contract, Storage Provider shall provide and pay for all goods, services, utilities and facilities necessary for the execution and timely completion of the Services.
- (h) The failure of either Party to enforce at any time any of the terms, conditions and provisions of this Outside Storage Contract or to require at any time performance by the other Party of any of the other Party's obligations shall in no way be construed to be a present or future waiver of such provisions or in any way to affect the validity of this Outside Storage Contract or any part hereof, or the right thereafter to enforce each and every such term, condition and provision. The express waiver (whether one or more times) by either AMD or Storage Provider of any term, condition or provision of this Outside Storage Contract shall not constitute a waiver of any future obligation to comply with such term, condition or provision.
- (i) This Outside Storage Contract was arrived at through good faith, arms-length negotiations, and any ambiguity shall not be construed against either Party.
- (j) Nothing in this Outside Storage Contract is intended to confer any rights or remedies upon any persons other than AMD and Storage Provider and their respective successors and permitted assigns, nor is anything in this Outside Storage Contract intended to relieve or discharge the obligation or liability of any persons other than AMD and Storage Provider, nor shall any provision of this Outside Storage Contract give any third person any right of subrogation, claim or cause of action against any Party.
- (k) Any moneys due for Services furnished hereunder may at AMD's option be applied by AMD to the payment of any sums owed by Storage Provider to AMD. AMD will provide Storage Provider reasonable information supporting such an offset.

### **SECTION 3. SUSTAINABLE DEVELOPMENT; SAFETY**

- (a) Within the framework of sustainable development, AMD is strongly committed in terms of safety, health, social dialogue and environment. Storage Provider shall provide AMD with Services performed safely and in compliance with Applicable Laws (including all laws regarding the environment). Moreover the principles stated in the United Nations Global Compact Treaty being of paramount importance for AMD, Storage Provider is invited to take all necessary steps in order to support the United Nations Global Compact Treaty (<http://www.unglobalcompact.org>).
- (b) Safety of AMD's personnel and those of its suppliers, contractors, and visitors to AMD's Premises is a priority for AMD. No other priority may override safety. Storage Provider fully endorses these policies and adopts them as its own, in so far as they relate to the performance of its obligations under this Outside Storage Contract. Storage Provider shall have and shall enforce and strictly comply with a strong internal safety policy that includes all current industry standards and any other applicable safety codes or procedures. Disregard for, or multiple or continued violations of, the safety considerations shall be deemed to be a material breach of this Outside Storage Contract.
- (c) Storage Provider shall use only duly inspected and certificated equipment and duly licensed and trained operators where required and shall furnish its personnel with all required protective equipment and enforce the safe and proper use of such equipment.
- (d) While on the AMD's Premises, Storage Provider shall comply with (and shall cause its employees, contractors and agents to comply with) any safety, health, and environmental measures implemented by AMD including, but not limited to, the rules and policies referenced in Section 4 herein. On AMD's request, Storage Provider shall attend all safety meetings held by AMD relating to the Services.
- (e) Storage Provider shall: (i) notify AMD immediately of any safety, health or environmental issues (including, without implying limitation, the discovery of hazardous and/or radioactive material) which may arise in connection with the performance of its obligations under this Outside Storage Contract; and (ii) take all appropriate measures and actions to mitigate the consequences which arise or which may arise therefrom and for which Storage Provider is or may otherwise be responsible under this Outside Storage Contract. Breach of any of the provisions of this Section 3 by Storage Provider shall be a material breach of a fundamental term of the Agreement. In the event of any such breach, AMD may terminate the Agreement by written notice to Storage Provider with immediate effect. Storage Provider shall indemnify, defend and save harmless AMD, its directors, officers, employees and agents against all claims, damages, loss or expense arising out of Storage Provider's breach of its obligations under this Section 3 and against any adverse effects arising from such breach.

#### **SECTION 4. COMPLIANCE WITH LAWS, RULES AND POLICIES**

- (a) Storage Provider shall at all times familiarize itself with and comply with all Applicable Laws (including, without limitation those relating to anti-corruption, trade sanctions, safety, health and the environment) in performing the Services; and the Services shall in all respects conform to the requirements of all Applicable Laws. Unless otherwise expressly provided elsewhere in this Outside Storage Contract, Storage Provider shall secure and maintain all applicable permits, licenses and certifications required to perform the Services; and Storage Provider shall comply with all reporting requirements required by any Applicable Laws. Upon request by AMD, Storage Provider shall provide AMD with copies of all documents submitted to any governmental authority in connection with the Services or in compliance with any Applicable Laws.
- (b) Any clause required under any Applicable Law to be included in this Outside Storage Contract shall be deemed to be incorporated by reference into this Outside Storage Contract.
- (c) Storage Provider shall not offer or give, or agree to give, to any employee, agent, servant or representative of AMD any gift, commission or other consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or having refrained from doing, any act in relation to the obtaining or execution of this Outside Storage Contract, or for showing or refraining from showing favour or disfavour to any person in relation to this Outside Storage Contract. Storage Provider warrants that it has not paid commission, nor has it agreed to pay commission to any employee or representative of AMD in connection with this Outside Storage Contract.
- (d) Where Storage Provider or Storage Provider's employees, servants, Subcontractors, Suppliers or agents, engage in conduct prohibited by the provisions of this Section 4 in relation to any Outside Storage Contract, AMD shall be entitled to: (i) terminate this Outside Storage Contract pursuant to Section 13(b) and recover damages from Storage Provider resulting from such termination; or (ii) recover from Storage Provider any direct damages sustained by AMD in consequence of any breach of this Section 4 whether or not this Outside Storage Contract has been terminated.
- (e) Storage Provider shall notify AMD immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur in relation to any aspect of this Outside Storage Master Agreement.
- (f) Storage Provider represents that it has read and understands ArcelorMittal's "Code of Business Conduct", which is accessible at [http://corporate.arcelormittal.com/~media/Files/A/ArcelorMittal/corporate-responsibility/code-of-business-conduct\\_EN.pdf](http://corporate.arcelormittal.com/~media/Files/A/ArcelorMittal/corporate-responsibility/code-of-business-conduct_EN.pdf) and that it has not taken any

action inconsistent with or contrary to ArcelorMittal's Code of Business Conduct in obtaining this Outside Storage Contract. Storage Provider covenants that it shall not take any action inconsistent with or contrary to ArcelorMittal's Code of Business Conduct in the performance of this Outside Storage Contract. Storage Provider may be in material breach of this Outside Storage Contract for any violation of the foregoing representations or covenant.

- (g) Without in any way limiting the requirements of this Section 4, the following, as updated from time to time, shall apply to this Outside Storage Contract:
- (i) Standards and Procedures Manual – Outside Storage (MHL-7962-002), which is accessible at <https://ec.dofasco.ca>
  - (ii) ArcelorMittal's "Code for Responsible Sourcing", which is accessible at <http://corporate.arcelormittal.com/~media/Files/A/ArcelorMittal/who-we-are/code-of-responsible/New%20code%20for%20responsible%20sourcing%20v2.pdf>
  - (iii) AMD's Third Party Health and Safety Program, together with ArcelorMittal's "Health and Safety Policy", which is accessible at <http://dofasco.arcelormittal.com/~media/Files/A/Arcelormittal-Canada/3rd%20party%20health%20safety%20and%20environment%20policy.pdf>
  - (iv) ArcelorMittal's "Environmental Policy", which is accessible at <http://corporate.arcelormittal.com/~media/Files/A/ArcelorMittal/corporate-responsibility/publications-and-reports/archive/arcelormittal-policies/720-0-0-EnvironmentPolicy.pdf>
- (h) Storage Provider agrees to comply fully with all applicable anti-corruption laws, and to comply with ArcelorMittal's "Anti-Corruption Procedure Guidelines" which are accessible at <http://corporate.arcelormittal.com/~media/Files/A/ArcelorMittal/corporate-responsibility/Anti-Corruption-2014.pdf>

Storage Provider's failure to comply with all applicable anti-corruption laws or ArcelorMittal's Anti-Corruption Procedure Guidelines will be deemed to be a material breach of the Outside Storage Contract entitling AMD to terminate the Outside Storage Contract. In that event, AMD may also suspend or withhold payment if it has a good faith belief that Storage Provider intends to violate any anti-corruption laws. AMD will not be liable for any claims, losses, or damages arising from or related to failure by Storage Provider to comply with any such laws or this anti-corruption clause or related to the termination of the agreement under this clause and Storage Provider will indemnify and hold AMD harmless against any such claims, losses, or damages.



- (i) Storage Provider represents that it has read and understands ArcelorMittal's "Human Rights Policy" which is accessible at <http://corporate.arcelormittal.com/~media/Files/A/ArcelorMittal/corporate-responsibility/publications-and-reports/archive/arcelormittal-policies/720-0-18-ArcelorMittalHumanRightsPolicyEng.pdf> and covenants that it shall not take any action inconsistent with or contrary to ArcelorMittal's Human Rights Policy in the performance of this Outside Storage Contract. Violation of the foregoing representations or covenant is a material breach of this Outside Storage Contract.
- (j) Storage Provider shall be responsible for ensuring that its Suppliers and Subcontractors comply with all requirements set out in Sections 3 and 4 herein in relation to the Services provided by Storage Provider to AMD.

## SECTION 5. NOTICES

All notices, demands and other communications required or permitted to be given under this Outside Storage Contract shall be in writing and shall be deemed to be made or given when personally delivered or four (4) business days after being mailed by registered or certified mail, postage prepaid, return receipt requested, or one (1) business day after being sent by courier guaranteeing overnight delivery, postage prepaid, to the parties at the following respective addresses, or at such other address as a respective party may designate from time to time pursuant to a notice duly given hereunder to the other party. Notwithstanding anything to the contrary, no notice from Storage Provider shall be deemed to have been given to AMD unless an e-mail copy thereof is sent to the email addresses for AMD below.

A. If to AMD:

ArcelorMittal Dofasco G.P.  
Box 2460, 1330 Burlington St. E.  
Hamilton, Ontario L8N 3J5

Attention: Purchasing Department

and by Email to: [purchasing\\_logistics.dofasco@arcelormittal.com](mailto:purchasing_logistics.dofasco@arcelormittal.com)

With a copy to:

ArcelorMittal Dofasco G.P.  
Box 2460, 1330 Burlington St. E.  
Hamilton, Ontario L8N 3J5

Attention: Corporate Secretary

and by Email to: [corpsecAMD.dofasco@arcelormittal.com](mailto:corpsecAMD.dofasco@arcelormittal.com)

- B. If to Storage Provider:  
To the representative and address of Storage Provider listed on the Execution Sheet.

## **SECTION 6. CHANGED SERVICES; CHANGE ORDERS**

- (a) “Changed Services” shall mean the provision of goods or services in addition to, less than and/or different from the goods or services included within the Services as set out in a particular Purchase Order. At any time prior to the completion of the Services, AMD may require Storage Provider to perform Changed Services.
- (b) Prior to Storage Provider’s commencement of any Changed Services, AMD and Storage Provider shall reach agreement on any adjustments in the Contract Price and/or any other adjustments including but not limited to the time for completion of the Services reasonably resulting from the Changed Services. Upon such agreement, AMD shall issue necessary and customary documentation (a “Change Order”) describing the Changed Services and any such adjustments, the payment for which shall be separately invoiced by Storage Provider. Storage Provider may accept each Change Order either by express acceptance thereof or by beginning performance of the Services specified therein or by not rejecting it within five (5) business days of receipt. Upon issuance of a Change Order, Services for all purposes under a particular Purchase Order, or this Outside Storage Contract (if so specified), shall thereafter mean the Services as modified by the Change Order.

## **SECTION 7. DELIVERY PERFORMANCE**

The time for the performance and completion of Services as specified on the Purchase Order for this Outside Storage Contract is of the essence. If Storage Provider fails to deliver goods or perform the Services at the time specified on the Purchase Order and such delay or failure is a result of Storage Provider’s actions or omissions, AMD may cancel the Purchase Order and procure such Services elsewhere and charge Storage Provider with any cost of cover.

## **SECTION 8. BILLING AND PAYMENT**

- (a) Except those payments subject to AMD’s invoiceless pay process as set out in paragraph 8(b), all payments to Storage Provider will be based on invoices prepared by Storage Provider in accordance with the Other Contractual Documents. Unless otherwise stated in the Other Contractual Documents:
- (i) Invoices shall be rendered and all payments made in Canadian funds;
  - (ii) No payments shall be made to Storage Provider except on the basis of original invoices submitted by Storage Provider to AMD together with a detailed breakdown of the amounts of such invoices in a form acceptable to

AMD and such supporting documentation as AMD may reasonably require to support the amount for which payment is requested, approved by AMD's Authorized Representative; and

(iii) Invoices shall be paid by cheque or EFT issued net 45 days (or such number of days as is specified on the Purchase Order) after the receipt of the invoice by AMD.

Payment will not constitute acceptance by AMD of the quality or quantity of goods or services delivered by Storage Provider hereunder. AMD reserves the right to change the invoice process from time to time in its sole discretion.

- (b) For Storage Providers subject to AMD's invoiceless pay process as determined by the AMD's Authorized Representative, unless otherwise noted, AMD will process an invoice (the "**Invoice Payment Details**") to itself from Storage Provider which shall represent the final invoice between the Parties. AMD shall provide a copy of such invoice to Storage Provider. For clarity, there shall be no separate form of invoice issued by Storage Provider and AMD's Invoice Payment Details shall form the invoice setting out the payment to be made to the Storage Provider. The Parties agree that such Invoice Payment Details shall be considered an invoice issued by Storage Provider to AMD.

In the event that Storage Provider provides certain services that are only partly subject to AMD's invoiceless pay process, AMD's Invoice Payment Details shall represent the final invoice from Storage Provider to AMD for all Purchase Orders that are subject to AMD's invoiceless pay process and the Storage Provider may issue a separate invoice for those services which are not subject to AMD's invoiceless pay process. In the event that Storage Provider does generate a separate form of invoice for Purchase Orders that are subject to Dofasco's invoiceless pay process, such Storage Provider-generated invoice shall be null and void and of no effect.

The Parties acknowledge and agree that Storage Provider shall be responsible for remitting the applicable taxes indicated on the Invoice Payment Details to the Canada Revenue Agency/Revenue Quebec, as applicable.

Any objections to the information set out in AMD's Invoice Payment Details shall be communicated by the Supplier to AMD no later than five (5) business days following the issuance of AMD's Invoice Payment Details failing which the Invoice Payment Details shall represent the final invoice between the Parties.

## **SECTION 9. FORCE MAJEURE**

Neither party shall be liable for delays in the performance of its obligations caused by the following conditions of "Force Majeure," namely: acts of God; laws, orders, rules, regulations, acts and restraints of armies, militaries, enemies, terrorists, and governmental authorities; war, revolutions, mobilization, political and civil unrest or insurrection,

embargos, disturbances and riots; epidemics, outbreak of disease and quarantine; inclement weather including floods, storms, tornados, hurricanes, tsunamis, earthquakes, volcanic eruptions and landslides; explosions and fire; labour issues including disputes, walkouts, strikes, slowdowns, lockouts and picketing; damage, destruction or expropriation of property; delays or defaults in or caused by, and shortages of, power, water, transportation and common carriers, facilities, labour, subcontractors, goods, materials and supplies; breakdowns in or the loss of production; non-availability of relevant markets and the state of the marketplace; and any other event or occurrence beyond the reasonable control of the applicable party. Any party wishing to claim Force Majeure as an excuse for non-performance or failure of timely performance must promptly notify the other party in writing of (i) the nature of the Force Majeure being claimed, (ii) its best estimate of the number of days of delay expected to result therefrom, (iii) the steps it proposes to take to reduce to the minimum the number of days of delay, and (iv) the date on which the Force Majeure claimed as an excuse for non-performance terminates. The sole remedy for any permitted delays resulting from Force Majeure shall be an extension of the period of time for performance of those obligations affected by the Force Majeure occurrence for the minimum time period necessary to overcome the effect of such Force Majeure, provided, however, that if a claimed Force Majeure event exceeds or is expected to exceed more than 30 total days the parties agree to meet to decide the next course of action, which may include termination.

#### **SECTION 10. NO SERVICES TO BE FURNISHED BY AMD**

Except as otherwise expressly set forth in this Outside Storage Contract, AMD shall have no obligations in respect of the performance of the Services.

## **SECTION 11. STORAGE PROVIDER'S WARRANTIES**

- (a) In addition to any other warranties by Storage Provider, express or implied by law, Storage Provider hereby represents and warrants to AMD that all Services and material produced thereby shall strictly conform with all specifications and any other requirements contained in this Outside Storage Contract including but not limited to those contained in the Standards and Procedures Manual – Outside Storage.
- (b) Unless otherwise specified on the face of the applicable Purchase Order, any Services not strictly conforming with the foregoing warranties at any time prior to AMD's end-customer's use of the materials produced or affected by, or handled in connection with, the Services shall be deemed to be defective and shall at AMD's request and convenience, but at Storage Provider's sole expense, be repaired, replaced or re-performed as may be reasonably elected by AMD.
- (c) With respect to any warranty claim made by AMD, Storage Provider shall promptly inform AMD as to when Storage Provider will make the repair, replacement or re-performance elected under Section 11(b) above. If, in the reasonable judgment of AMD, the response time proposed by Storage Provider is not adequate to avoid or minimize AMD's loss or damage, if Storage Provider cannot be contacted, or if Storage Provider cannot make the suitable repair, replacement or re-performance, AMD may make such repair, replacement or re-performance at Storage Provider's expense, which expense shall be reasonable.
- (d) The foregoing warranties and all remedies for breach thereof are non-exclusive, cumulative and in addition to any other rights and remedies available to AMD.
- (e) If AMD notifies Storage Provider that any AMD Property has been placed on "hold" or if a "hold" is transmitted by EDI on any of AMD Property, Storage Provider shall not release or ship such material unless and until it is specifically directed to do so by AMD's authorized representative.

## **SECTION 12. INSPECTION AND ACCESS**

- (a) All portions of the Services shall be subject at all times to inspection by AMD at any and all places where the Services may be performed; provided, however, that such inspection shall not unreasonably interfere with Storage Provider's performance of the Services. Storage Provider shall provide AMD with all necessary and reasonable information concerning the Services. Neither AMD's right of inspection, whether or not exercised, nor any such inspection, shall

relieve Storage Provider of its responsibilities for the proper performance of the Services.

- (b) AMD's good faith decision that any Services do not in all respects comply with this Outside Storage Contract shall be final and conclusive, subject to any disputes resolution procedure applicable to this Outside Storage Contract. No failure on the part of AMD to inspect or reject any Services or AMD Property with respect to which Services have been provided at any time shall be deemed an acceptance of any defective Services, nor shall it prevent subsequent inspection or rejection.
- (c) Neither payment to Storage Provider nor any comments or suggestions or any interim, preliminary, informal or provisional approvals, whether written or oral, by any AMD employees or agents shall in any respect be taken as an approval of or admission by AMD of the quality of the Services or any part of the Services and shall in no way release Storage Provider from its warranties and other obligations under this Outside Storage Contract.

### **SECTION 13. AUDIT RIGHTS, INVENTORY AND QUALITY CONTROL**

- (a) Storage Provider shall keep, maintain and retain during the course of the Services and for not less than seven (7) years after completion and acceptance by AMD of the Services, complete and accurate books and records of: (1) Storage Provider's compliance with its obligations under the Outside Storage Contract; (2), costs and expenses chargeable to AMD (or reimbursable by AMD); and (3) the records set forth as follows:
  - (i) Purchase orders, paid invoices and canceled cheques for materials purchased and for any Subcontractors' or other third parties' charges;
  - (ii) Invoices for purchases, receiving and issuing documents, and all other unit-inventory records for Storage Provider's stores stock or capital items; and
  - (iii) Amounts paid by Storage Provider for labour in connection with the Services including overtime,

except that the books and records in Subsections (i) – (iii) above shall not need to be retained related to Services performed for a lump sum price determined prior to commencement of the Services except to the extent necessary to establish that the Services were performed, and when they were performed. AMD may audit such records as are required to be kept, maintained and retained hereunder. This right may be exercised at Storage Provider's facilities by designated representatives of AMD upon reasonable advance notice at any time from time to time up to seven (7) years after completion and acceptance by AMD of the Services.

- (c) AMD shall bear the expense of any audit unless otherwise agreed by the Parties or unless the audit discloses errors in AMD's favour, upon which the expense of any audit shall be paid by Storage Provider (or reimbursed to AMD, as the case may be, in the event that AMD has paid for the expense of such audit). Any overcharges disclosed by an audit will be subject to reimbursement to AMD plus interest accruing at the rate of 1% per month from the date the overcharge occurred.

#### **SECTION 14. TERM AND TERMINATION**

- (a) Unless otherwise agreed to by the Parties, the Outside Storage Master Agreement and the Other Contractual Documents, including these General Terms for Outside Storage, shall commence on the last signature date of the Parties on the Execution Sheet for the Outside Storage Master Agreement and shall terminate five (5) years after such date, with a right of automatic renewal at the sole option of AMD.
- (b) AMD may terminate, in whole or in part, this Outside Storage Contract for AMD's convenience at any time upon thirty (30) days written notice to Storage Provider. Storage Provider shall be entitled to payment for Services performed up to the date of termination. Upon termination, Storage Provider shall cease performing Services and shall take such action as AMD may direct for the protection and preservation of AMD Property and the Services performed up to the date of termination. Storage Provider agrees to cooperate with AMD to provide the information, personnel and resources necessary to effect an orderly termination, which may include a transfer of responsibilities for performing the Services. AMD shall reimburse Storage Provider for its reasonable out-of-pocket expenses incurred in performing its post-termination obligations. In no event shall Storage Provider be entitled to receive unrealized profits as a result of such termination.
- (c) If Storage Provider shall fail or refuse to diligently perform the Services or its other obligations hereunder or shall disregard Applicable Laws or safety considerations or the instructions of AMD or shall otherwise be in material breach of this Outside Storage Contract, then AMD, without prejudice to any other right or remedy it may have, may terminate this Outside Storage Contract upon written notice to Storage Provider and may finish the Services or obtain replacement Services by any method AMD deems expedient. In the event of such termination, Storage Provider shall:
  - (i) stop performing all Services on the effective date of the notice of termination;
  - (ii) place no further order or subcontract for materials, services or facilities;

- (iii) at AMD's election, terminate or assign to AMD all orders and subcontracts;
  - (iv) deliver to AMD such completed or partially completed information that, if the Outside Storage Contract had been completed, would have been required to be furnished (or returned) to AMD; and
  - (v) deliver to AMD a list of vendors, Suppliers and Subcontractors that have furnished materials, equipment or services in connection with the Services.
- (d) Storage Provider will obligate its Suppliers and Subcontractors to the same conditions with respect to termination as those applicable to Storage Provider as set forth above.
- (e) Storage Provider shall have the right to terminate this Outside Storage Contract if, at any time after thirty (30) days written notice, AMD fails to comply with a material provision of this Outside Storage Contract. Any such termination shall be deemed to be a termination for AMD's convenience pursuant to Section 14(a) above.

## **SECTION 15. NO LIENS; TITLE**

- (a) Title to all AMD Property shall at all times be and remain the property of AMD alone, and Storage Provider shall have no ownership or other interest therein. Storage Provider shall perform all Services so as to maintain in AMD full, exclusive and unencumbered title to and ownership to all AMD Property, free and clear of all liens, taxes, security interests or third party claims of any nature whatsoever except only those created by, under or through AMD. To the extent it is legally possible to do so, Storage Provider hereby releases and waives on behalf of itself and its employees and its Suppliers and Subcontractors and their respective employees, the right to file, establish or assert any lien upon any property of any of the AMD Companies in connection with any goods, services or labour supplied or performed in connection with this Outside Storage Contract, and Storage Provider shall take all actions and provide for execution any documents as are necessary in AMD's opinion to effect this release and waiver. At AMD's request, prior to engaging any Subcontractor or Supplier in connection with this Outside Storage Contract, Storage Provider shall obtain an executed final release and waiver of right to lien from such Supplier or Subcontractor in a form acceptable to AMD (when such Subcontractors may be entitled to liens). As a condition precedent to each payment otherwise due under this Outside Storage Contract, Storage Provider shall first deliver to AMD a fully executed final release and waiver of right to lien (when such Subcontractors may be entitled to liens) in a form acceptable to AMD from each Supplier and Subcontractor who has supplied or performed any goods or services for which payment is sought.



- (b) Storage Provider shall take all actions available at, or required by, law to preclude Suppliers and Subcontractors at any tier and any of their employees from asserting or attempting to assert any lien against AMD in connection with the Services.
- (c) Storage Provider shall immediately satisfy and discharge and shall indemnify, defend and hold harmless AMD from and against all liens and claims therefor in connection with the Services or the performance thereof. If any such lien or claim therefor shall at any time be filed or asserted against any property of any AMD Companies, Storage Provider shall at its own expense immediately take all such action as is necessary to remove or satisfy such lien. In addition, Storage Provider shall immediately reimburse AMD for all costs or expenses incurred by AMD in order to discharge or contest such lien or claim therefor, including without limitation reasonable legal fees, expert fees and court fees. No payment by AMD or acceptance of any goods or services supplied or performed or improvements constructed pursuant to this Outside Storage Contract shall constitute a waiver of Storage Provider's obligation to indemnify, defend and hold harmless.
- (d) AMD may at any time during normal business hours enter Storage Provider's premises and remove any or all AMD Property.
- (e) Storage Provider agrees to furnish AMD immediate written notice of the seizure, by process of law or otherwise, of any AMD Property, or in the event of any circumstance which may affect AMD's property or access to same.

## **SECTION 16. FINANCIAL CONDITION**

Storage Provider warrants to AMD that its financial condition is and will be sufficient to enable it to perform and complete satisfactorily all of its obligations under this Outside Storage Contract; and Storage Provider shall at AMD's request furnish sufficient documentation evidencing said sufficient financial condition, including but not limited to financial statements, which AMD shall treat as Confidential Information. Storage Provider also warrants that any financial statements furnished to AMD, if any are required to be submitted to AMD, are prepared in accordance with general accounting principles applied on a consistent basis and such financial statements accurately describe Storage Provider's financial condition.

## **SECTION 17. RISK OF LOSS; INDEMNIFICATION; CLAIM POLICY**

- (a) Storage Provider shall indemnify, defend and hold the AMD Indemnitees harmless from and against the full amount of all loss or liability (including reasonable legal fees) for or on account of any disease or injury (including death) or damages received or sustained by any person by reason of: (i) any act or

omission, whether negligent or otherwise, on the part of Storage Provider or any of its subcontractors or any of their respective employees, agents or invitees; (ii) the condition of Storage Provider's premises; or (iii) otherwise arising out of Storage Provider's performance of this Outside Storage Contract.

- (b) Storage Provider certifies that the AMD Property processed under this Outside Storage Contract, if any, (for the Purpose of this subparagraph, the "Products") complies in all respects with the requirements of the *Canada Consumer Product Safety Act* (the "CCPSA"). Despite any other provision of this Outside Storage Contract, Storage Provider will indemnify and save harmless the AMD Indemnitees from and against the full amount of all loss, which the AMD Indemnitees suffer as a result of:
- (i) the Products being inspected, seized or recalled under the authority of the CCPSA;
  - (ii) any measures AMD is required to take with respect to the Products pursuant to an order made under the authority of the CCPSA;
  - (iii) the disclosure of any of AMD's confidential business information (as that term is defined in the CCPSA) under the authority of the CCPSA;
  - (iv) any injunction granted with respect to the importation, advertisement or sale of the Products on the basis of a breach or anticipated breach of the CCPSA; and
  - (v) any fines or penalties imposed upon AMD or any of its directors, officers and/or employees, on the basis that the Products are a "danger to human health and safety" as that term is defined in the CCPSA,

provided that there will be no indemnification under this subparagraph 16(b) if it can be shown that the loss was caused by the conduct, practices, or any act or omission of AMD.

- (c) Storage Provider shall be liable for and fully reimburse AMD for any loss of or damage to any AMD Property that occurs when it is in Storage Provider's possession, control or custody and shall indemnify, defend and hold AMD harmless from and against any claims by third parties in connection with such loss or damage, including without limitation claims that AMD has failed to perform its contract with or purchase order from a third party. In the event of loss or damage to any AMD Property shipped or delivered to Storage Provider, AMD may, at its option, invoice such material to Storage Provider at AMD's published or established commercial price plus freight in effect at that time and such invoice(s) shall be payable within thirty (30) days of the invoice date. Storage Provider shall reimburse AMD for such loss or damage and shall reimburse AMD for any charges for Services previously paid on the items lost or damaged.

- (d) Storage Provider shall inspect all AMD Property when received (without prematurely opening any protective packaging) and document any observable damage to AMD Property. In the event the AMD Property is damaged at the time that it is sent for outbound shipment from Storage Provider and Storage Provider's inbound inspection documentation does not note such damage and such damage would have been observable, the damage shall be presumed to have been caused while the AMD Property was in Storage Provider's possession. Storage Provider shall only be able to rebut that presumption by clear and convincing evidence to the contrary.
- (e) In the event Storage Provider fails to correct or report to AMD any defects in or affecting AMD Property that are reasonably discoverable by Storage Provider in the course of the Services, whether such defects are caused by Storage Provider, AMD or otherwise, then Storage Provider shall reimburse AMD for any claim by AMD's end customer to the extent the claim is attributable to Storage Provider's failure to properly perform the Services or to inspect the AMD Property (and notify AMD of defects or damage); or if the material produced by the Services are rejected by the end customer, Storage Provider shall reimburse AMD for the reasonable cost to provide substitute materials to the end Customer to the extent the rejection is attributable to Storage Provider's failure to properly perform the Services or to inspect the AMD Property.
- (f) In lieu of AMD's remedies in subparagraphs (c), (d) and (e) of this Section 17, at its option, AMD reserves the right to sell rejected material on the open market.
- (g) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER THIS OUTSIDE STORAGE CONTRACT FOR CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, REVENUES, PRODUCTION OR BUSINESS, WHETHER BASED ON BREACH OF CONTRACT, NEGLIGENCE, BREACH OF WARRANTY OR OTHERWISE (COLLECTIVELY "CONSEQUENTIAL DAMAGES"); PROVIDED, HOWEVER, THAT FOR PURPOSES OF THE FOREGOING LIMITATION, CONSEQUENTIAL DAMAGES SHALL NOT INCLUDE ANY OBLIGATIONS TO DEFEND, INDEMNIFY OR HOLD HARMLESS TO WHICH EITHER PARTY HAS EXPRESSLY AGREED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT THE UNDERLYING CAUSE FOR EITHER PARTY HAVING TO PERFORM ITS OBLIGATIONS TO DEFEND, INDEMNIFY OR HOLD HARMLESS THE OTHER PARTY WOULD OTHERWISE UNDER APPLICABLE LAW BE DEEMED TO BE CONSEQUENTIAL DAMAGES.

## **SECTION 18. INSURANCE**

- (a) Prior to the completion of the Services, any Changed Services as applicable, and re-delivery to AMD or delivery to a third party as directed by AMD, the AMD

Property shall remain at the risk of Storage Provider and Storage Provider shall be responsible for all loss and damage to the AMD Property and shall repair, correct or otherwise cure, at its own option and expense, all such loss and damage whether or not due to the fault of Storage Provider.

- (b) Storage Provider shall maintain and shall require each of its Subcontractors, if any, to maintain the following types of insurance coverages with not less than the limits of coverage below or that Storage Provider maintains as part of its general program of business insurance, whichever are greater, and for coverage periods as long as the Outside Storage Master Agreement is in effect:
- (i) \$2,000,000.00 per occurrence Commercial general liability insurance (including umbrella coverage), on a form at least as broad as Insurance Services Office (“ISO”) commercial general liability “occurrence” form CG 00 01 0196 (available through a commercial insurance broker) or another “occurrence” form providing equivalent coverage and approved in writing by AMD; and such commercial general liability insurance and any necessary riders thereto shall provide at least the following coverages:
    - (1) contractual liability coverage as applicable to any hold harmless agreements in this Outside Storage Contract; and
    - (2) completed operations coverage;
  - (ii) Workers Compensation and occupational disease insurance securing compensation for the benefit of Storage Provider employees and the employees of each Subcontractor, if any, as required by Applicable Laws, including the laws of each province where the employment contracts of such employees were made. Such coverage need not be obtained if Storage Provider has an accepted program of self-insurance under Applicable Law or participates in an applicable government administered Workers Compensation fund;
  - (iii) \$1,000,000.00 combined single limit of Motor vehicle liability insurance issued on a form at least as broad as ISO Business Auto Coverage Form CA 00 01 07 97 or other form providing equivalent coverage, covering all owned, hired, borrowed and non-owned vehicles (Symbol 1) brought onto the real property of any AMD Company; and
  - (iv) All-risk property insurance (including flood and earthquake) covering full value of all AMD Property in Storage Provider’s custody or control, including transit perils. AMD, Storage Provider and all Subcontractors shall be additional insureds under the policy, which shall be primary to and noncontributory with any other insurance carried by AMD.

- (c) All required policies of insurance shall contain a waiver of subrogation in favor of AMD's Indemnitees. The required commercial general liability insurance policies shall cover AMD as an additional insured with respect to claims arising out of the Services of the named insured or on the real property of any AMD Company, and with respect to claims by employees of Storage Provider or their personal representatives, heirs, and beneficiaries. Such coverage shall be primary to and noncontributory with any other insurance carried by AMD.
- (d) The required policies of insurance for commercial general liability, employers liability, motor vehicle liability, and builders risk shall not have deductibles or self-insured retentions which are greater than the lesser of (i) five percent (5%) of the coverage limit required for the policy, or (ii) the deductibles or self-insured retentions in Storage Provider's general program of business insurance. All deductibles on insurance required to be obtained under this Outside Storage Contract shall be borne by Storage Provider at its sole expense, without reimbursement by AMD, and shall be treated as "insurance" for the purpose of the waiver in Section 18 (h) below.
- (e) All required policies of insurance shall be maintained in a form and with responsible insurance carriers reasonably satisfactory to AMD who are qualified to do business in the jurisdiction(s) in which the Services is performed. As soon as practicable upon execution of this Agreement and before commencing any Services hereunder, Storage Provider shall provide AMD with certificates of insurance evidencing all required coverages, listing all additional insureds required hereunder, and confirming the required waiver of subrogation. The certificates shall state that the policies described therein will not be cancelled, terminated, or materially amended, and renewals will not be refused or aggregate limits potentially exhausted until at least thirty (30) days after written notice has been given to AMD. All certificates of insurance shall be sent to the attention of AMD's Purchasing Department. Thereafter, Storage Provider shall deposit with AMD certificates of renewal not less than ten (10) days before the expiration dates of the expiring policies. Each policy of insurance shall not contain any exclusions for Services performed by Subcontractors and must incorporate any additional endorsements as AMD may reasonably request.
- (f) Storage Provider shall notify AMD and the applicable insurance carriers of any occurrence or event giving rise to a claim as required under the terms of the policies.
- (g) Storage Provider waives all rights and claims against AMD's Indemnitees, for all damages, losses, fines, expenses, costs, and fees, but only to the extent of its actual recovery of any insurance proceeds. Storage Provider shall require similar waivers in favor of AMD and Storage Provider from its Subcontractors.
- (h) Failure of Storage Provider to provide such certificates evidencing the required insurance shall under no circumstances be deemed a waiver of this requirement.

The obligation of Storage Provider to provide the required policies of insurance shall not limit in any way the liability or obligation assumed by Storage Provider herein. Failure to maintain all required insurance coverage may result in the cancellation of this Outside Storage Contract and may result in termination of all other Outside Storage Contracts entered into under the Outside Storage Master Agreement.

## **SECTION 19. ASSIGNMENT**

This Outside Storage Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns. Storage Provider shall not assign or subcontract the Contract or any of its rights or obligations hereunder nor shall it make an assignment or pledge of any of the monies to be received by it from AMD hereunder unless it shall have procured the prior written consent of AMD to such assignment or pledge. No assignment or subcontracting of any portion of the Services to be performed hereunder will relieve Storage Provider of its obligations under this Outside Storage Contract. Notwithstanding anything herein to the contrary, and without in any way limiting any other of AMD's rights, AMD shall have the right upon written notice to Storage Provider to assign this Outside Storage Contract and AMD's rights or obligations under this Outside Storage Contract to (i) any person who acquires all or substantially all of AMD's business assets to which this Outside Storage Contract pertains, and (ii) any of the AMD Companies.

## **SECTION 20. TAXES**

- (a) Storage Provider shall collect and pay (i) all taxes, contributions and premiums payable under Applicable Laws and based upon the payroll of employees engaged in the performance of the Services, (ii) all value-added, sales, use, consumption, multi-staged, personal property, customs, excise, stamp, transfer, or similar taxes, duties and charges payable under Applicable Laws (collectively "Sales Taxes"), (iii) all income, transportation and other taxes that Storage Provider is required to pay under Applicable Laws, and (iv) any personal taxes on property owned by Storage Provider, and shall indemnify, defend and save AMD's Indemnitees harmless from liability for any such taxes, contributions and premiums assessed, including interest, penalties and reasonable legal and professional fees related thereto, incurred by AMD.
- (b) If AMD is required by law or by administration thereof to collect any applicable Sales Taxes from Storage Provider, then Storage Provider shall pay such Sales Taxes to AMD concurrent with the payment of the amount upon which such Sales Taxes are calculated, unless Storage Provider qualifies for an exemption from any such applicable Sales Taxes, in which case AMD shall accept, in lieu of payment of such applicable Sales Taxes, delivery by Storage Provider of such certificates, elections, or other documentation required by law or the administration thereof to

substantiate and effect the exemption claimed by Storage Provider. Where AMD is not required by law or by administration thereof to collect Sales Taxes arising in respect of the transactions described herein, Storage Provider shall pay such Sales Taxes directly to the appropriate taxing authority. Storage Provider shall, at all times, indemnify and hold harmless AMD's Indemnitees against and in respect of any and all amounts assessed by any taxing authority in the event that any Sales Tax exemption claimed by Storage Provider was inapplicable, invalid, or not properly made.

## **SECTION 21. PUBLICITY; CONFIDENTIALITY; PRIVACY**

- (a) Storage Provider shall not make any public announcement, press release or advertisement in connection with this Outside Storage Contract or in any way use AMD's name or logo without the prior written approval of AMD.
- (b) Storage Provider shall not take any photographs, videotapes, motion picture or digital images or use any other visual recording devices on any AMD Property without, and in each instance where granted, only to the extent of, the prior written permission of AMD, which may be withheld in AMD's sole discretion.
- (c) Storage Provider shall not disclose any AMD information obtained by or provided to Storage Provider in the performance of this Outside Storage Contract (such information being "Confidential Information") to any person or entity other than those employees or agents of Storage Provider with a need to know AMD's Confidential Information to perform under this Outside Storage Contract, or use the Confidential Information for any purpose other than in connection with the performance of this Outside Storage Contract, except with the written consent of AMD's Authorized Representative, or as necessary to enforce this Outside Storage Contract, or as may be required by Applicable Laws. AMD shall not disclose any financial information of Storage Provider provided pursuant to this Outside Storage Contract, or any cost, business practice, business plans or pricing information of Storage Provider obtained by or provided to AMD in the performance of this Outside Storage Contract (such information also being "Confidential Information") to any person or entity other than those employees or agents of AMD with a need to know Storage Provider's Confidential Information to perform under this Outside Storage Contract, except with the consent of Storage Provider, or as necessary to enforce this Outside Storage Contract, or as may be required by Applicable Laws. If either party is required under any Applicable Law to disclose any Confidential Information of the other party (a "Demand"), the party to whom the Demand is directed shall promptly notify the other party of such Demand, so that the other party may seek an appropriate protective order or consent to the disclosure. If a protective order or consent is not obtained by the date by which the Demand must be satisfied, the party subject to the Demand may disclose the Confidential Information, but only to the extent required to comply with the Demand. Neither party shall be required to keep confidential any data or information which is or becomes publicly available

without fault on the part of the other party; is independently developed outside the scope of this Outside Storage Contract; or is rightfully obtained from third parties. The parties' obligations under this subparagraph 21 (c) shall survive for an additional five (5) years after the termination or expiration of this Outside Storage Contract.

- (d) Upon AMD's request, Storage Provider shall execute any additional agreements regarding proprietary information or trade secrets in connection with this Outside Storage Contract as AMD may reasonably request.
- (e) In the event Storage Provider provides AMD with any personal information with respect to any individual, Storage Provider consents to the use of such information by AMD for the purposes of emergency, health and safety, and/or contract administration. Storage Provider represents and warrants to AMD that it has obtained, and agrees that it will obtain, all such consents as may be required under applicable privacy legislation, including the *Personal Information Protection and Electronic Documents Act* and the *Personal Health Information Protection Act* (Ontario), to permit AMD to use such information. Storage Provider shall indemnify AMD with respect to any losses, costs, claims or damages incurred or suffered by AMD as a result of the inaccuracy of such representation or the breach of such warranty.

## **SECTION 22. INDEPENDENT CONTRACTOR**

Storage Provider shall be and act at all times as an independent contractor hereunder, and neither Storage Provider nor any of its associates, employees, subcontractors, suppliers or agents shall be deemed to be partners, joint venturers, agents or employees of AMD for any purpose whatsoever. Storage Provider shall be responsible for all payroll taxes levied or in any way attributable to Storage Provider's employees, and nothing herein shall entitle Storage Provider or any of its employees, representatives or agents to any employee benefits of AMD. Neither Storage Provider nor any of its employees shall represent themselves to be an employee of AMD. Storage Provider shall have no authority and shall not represent that it has authority to execute documents on behalf of AMD or otherwise to assume or incur any obligation of any kind whatsoever in the name of AMD.

## **SECTION 23. DISPUTES RESOLUTION**

- (a) In the event of any dispute between AMD and Storage Provider arising out of the performance of the Services or failure or alleged failure thereof or the interpretation or observance of any of the Other Contractual Documents or otherwise related to the Outside Storage Contract, each of the Parties shall promptly advise its senior management, in writing, of such dispute. Within ten (10) Business Days following delivery of such notice, the senior executives from each Party shall meet, either in person or by telephone, to attempt to resolve the



dispute. Each Party shall be prepared to propose a solution to the dispute. If, following such efforts, the dispute is not resolved, the dispute shall be settled by arbitration pursuant to this Section 23. Notwithstanding the foregoing, nothing in this Outside Storage Contract or this Section 23 shall restrict or prohibit either party from seeking injunctive or equitable relief from a court of competent jurisdiction.

- (b) Subject to and in accordance with the provisions of this Section 23, any and all differences, disputes, claims or controversies arising out of or in any way connected with this Outside Storage Contract, whether arising before or after the expiration or termination of this Outside Storage Contract, (including any dispute as to whether an issue is arbitrable) shall be resolved by arbitration before a single arbitrator (the “Arbitrator”) pursuant to the *Arbitration Act, 1991* (Ontario), as amended, and otherwise in accordance with the laws of the Province of Ontario.
- (c) A Party desiring arbitration hereunder shall give written notice of arbitration to the other party containing a concise description of the matter submitted for arbitration (“Notice of Arbitration”). If the Parties fail to jointly appoint an Arbitrator within twenty (20) days thereafter, an Arbitrator shall be designated by a judge of the Ontario Superior Court of Justice upon application by either party. The Arbitrator may determine all questions, of law, fact and jurisdiction with respect to the dispute or the arbitration (including questions as to whether a dispute is arbitrable) and all matters of procedure relating to the arbitration. The Arbitrator may grant legal and equitable relief (including injunctive relief), award costs (including legal fees and the costs of the arbitration), and award interest.
- (d) The arbitration shall be conducted in English in the City of Hamilton, unless otherwise agreed to by the Parties, at such place therein and time as the Arbitrator may fix and, failing agreement thereto by the parties, in accordance with such procedures as the Arbitrator shall determine, in accordance with the principles of natural justice. The arbitration and all matters arising directly or indirectly therefrom shall be kept strictly confidential by the Parties and shall not be disclosed to any third party except as may be compelled by law.
- (e) The Arbitrator’s written decision shall be delivered to each of the Parties within sixty (60) days following the conclusion of the arbitration hearing. The costs of any arbitration hereunder shall be borne by the Parties in the manner specified by the Arbitrator in his or her decision. The decision of the Arbitrator shall be final and binding upon the Parties in respect of all matters relating to the arbitration, the conduct of the parties during the proceedings and the final determination of the issues in the arbitration. There shall be no appeal from the decision of the Arbitrator to any court, except on the grounds that the conduct of the Arbitrator, or the decision itself, violated the provisions of the *Arbitration Act, 1991* (Ontario), as amended, or solely on a question of law as provided for in the *Arbitration Act, 1991* (Ontario), as amended. Judgment upon any award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.

- (f) Submission to arbitration under this Section 23 is intended by the Parties to preclude any action in matters which may be arbitrated hereunder, save and except for enforcement of any arbitral award hereunder.
- (g) Notwithstanding the provisions of this Section 23, arbitration proceedings shall not be proceeded with until after the completion or alleged completion of the Services unless AMD or Service Provider can show that the matter in dispute is of such nature as to require immediate consideration while evidence is available.
- (h) This Outside Storage Contract shall be governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in that Province. The Parties hereby irrevocably and unconditionally submit and attorn to the exclusive jurisdiction of the courts of the Province of Ontario to determine all issues, whether at law or in equity, arising from this Outside Storage Contract. To the extent permitted by Applicable Law, each of the Parties:
  - (i) irrevocably waives any objection, including any claim of inconvenient forum, that it may now or in the future have to the venue of any legal proceeding arising out of or relating to this Outside Storage Contract in the courts of that Province, or that the subject matter of this Outside Storage Contract may not be enforced in those courts;
  - (ii) irrevocably agrees not to seek, and waives any right to, judicial review by any court which may be called upon to enforce the judgment of the courts referred to in this paragraph 23(h)(ii), of the substantive merits of any suit, action or proceeding; and
  - (iii) to the extent a Party has or may acquire any immunity from the jurisdiction of any court or from any legal process, whether through service or notice, attachment before judgment, attachment in aid of execution, execution or otherwise, with respect to itself or its property, that Party irrevocably waives that immunity in respect of its obligations under this Outside Storage Contract.

## **SECTION 24. QUALITY, SHIPPING AND STORAGE REQUIREMENTS**

Storage Provider will comply with all of the quality, shipping, and storage requirements as described in the Standards and Procedures Manual – Outside Storage, as applicable. The version of any of the above-referenced document applicable to any Service shall be the version in effect on the date that the Purchase Order for the Services was sent or issued by AMD to Storage Provider.